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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,252	08/30/2001	Ramesh Kalimuthu	2705-170	4300
20575	7590	09/21/2005		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204				
			EXAMINER EMDADI, KAMRAN	
			ART UNIT 2667	PAPER NUMBER

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,252

Applicant(s)

KALIMUTHU ET AL.

Examiner

Kamran Emdadi

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 7, 13 and 18 the term "retransmit[ting]" is indefinite, noting lines 8, 10 and 13 of, for example, claim 1. There is no instance of transmitting packets that could be attributed to a subsequent retransmitting. Therefore, the Examiner suggests amending the term to recite "transmitting" instead of "retransmitting." Further, the term "retransmit[ting]" is recited in subsequent dependent claims, thus the term must be corrected throughout the dependent claims.

Regarding claims 2, 8, 14 and 19, the phrase "determine a third rate" is indefinite. Nowhere in the claims recite a "first rate", further, nowhere do these claims recite a "second rate", thus a third rate cannot be attributed to the claim language without a first or second rate. Also, a "third bandwidth" has no attributable first or second bandwidth.

Regarding claims 3, 9, 15 and 20, for somewhat similar reasons as stated above with regard to claims 2, 8, 14 and 19, claims 3, 9, 15 and 20 are also rejected for being indefinite because of a "second rate" not attributable to a first rate and a "second bandwidth" likewise.

Regarding claims 4-5, 10-11, 16-17 and 21-22 "the first bandwidth" has no antecedent basis.

Regarding claims 6 and 12, the phrase "the first and second switched virtual circuits are administered by a lower network layer" is indefinite because it is unclear what the "lower" is relative to, in other words, the "lower" is not compared to anything.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassella (PCT # WO 00/62494) in view of Bradley et al. (U.S. Patent No. 6,366,580).

Regarding claims 1, 7, 13 and 18, Cassella teaches a method of increasing the number of switched virtual circuits (SVCs) used to transmit data if additional bandwidth is needed (see figure 4). The invention further includes a processor and network interface (see figures 1-2). The slot controllers 18 of the ATM switch 10 are configured to receive and process data (see page 4), a decision is made whether to transmit the incoming data over an existing SVC or open a new SVC (see page 9). The decision is made based on an amount of bandwidth available on the existing SVC. Cassella is

however, silent regarding a first and second set of packets being transmitted through both a first and second SVC.

Bradley teaches a method of switching from a first SVC to a second SVC that includes two SVCs available for receiving data simultaneously (see column 5, lines 30-47). Cassella teaches using more than one SVC at a time and Bradley teaches transferring a data flow from one SVC to another SVC. Combining these two references would lead one of ordinary skill in the art to a device that allows two packets flows to be transferred over a second SVC.

Evidence to combine these two references is evident from the background portions of the respective specifications. For instance, Bradley teaches the need for a method of altering bandwidth in an ATM network in an efficient manner (see column 2, lines 7-32). Similarly, Cassella teaches the need for increased bandwidth in an ATM network when the number of calls exceeds a predetermined bandwidth threshold (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined these two references to arrive at the features recited in claims 1, 7, 13 and 18.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached on M-F between the hours of 8am-5pm.


Art Unit: 2667

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

September 13, 2005


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2667 9/15/05